

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,

V.

MITCHELL WALL,

Defendant

No. 2:00-cr-00077-GZS

**ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

2. It is hereby **ORDERED** that the Court considers Defendant's Motion for an Evidentiary Hearing a second motion pursuant to 28 U.S.C. §2255; therefore, it is **ORDERED** that the motion (ECF No. 75) is **SUMMARILY DISMISSED WITHOUT PREJUDICE** to Defendant's right to pursue whatever relief is available in the First Circuit Court of Appeals.

3. It is hereby **ORDERED** that no certificate of appealability pursuant to Rule 11 of the Rules Governing Section 2255 cases shall be issued should Defendant seek to appeal this order because there is no substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. § 2253(c)(2).

4. To the extent that Defendant's Objection is interpreted to request that this Court transfer the recommended decision to the First Circuit Court of Appeals for decision, that request is **DENIED**. The Court will however consider the request as a Notice of Appeal.

/s/George Z. Singal

U.S. District Judge

Dated this 16th day of April, 2013.